

SENATE BILL 1500

By Black

AN ACT to amend Tennessee Code Annotated, Title 39,
relative to criminal offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 15, Part 4, is amended by deleting § 39-15-401 in its entirety and by substituting instead the following:

Section 39-15-401.

(a) Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury commits the offense of child abuse, a Class A misdemeanor; provided, however, that if the abused child is eight (8) years of age or less, the penalty is a Class D felony.

(b) Any person who knowingly neglects or endangers a child under eighteen (18) years of age in such a manner that adversely affects the child's health and welfare commits a Class A misdemeanor; provided, however, that if the neglected or endangered child is eight (8) years of age or less, the penalty is a Class D felony. The child need not suffer an actual injury for the child to be neglected or endangered.

(c)

(1) Any person who, while pregnant, knowingly or intentionally injects, ingests, inhales or otherwise introduces into her body cocaine, marijuana, heroin, or a hallucinogenic substance, as defined in 39-17-406, and the child born of the pregnancy tests positive at the time of birth for those substances or their metabolites, shall be guilty of a Class E felony.

(2) Should the child born of the pregnancy die as a result of the person's inhalation, injection, ingestion, or inhalation of the cocaine, marijuana, heroin, or hallucinogenic, the offense shall be a Class D felony.

(d) No arrest warrant or summons shall be issued by any person authorized to issue such a warrant or summons against a child's parent, guardian or custodian for a violation of subsection (a) based upon the allegation that unreasonable corporal punishment was administered to such child unless the affidavit of complaint also contains a copy of the report prepared by the law enforcement official who investigated the allegation or independent medical verification of injury to the child.

(e)

(1) If a person is charged with a misdemeanor offense under this section a juvenile court judge has concurrent jurisdiction with a judge of the court of general sessions. The juvenile court judge may have a person so charged, arrested and brought before the court. This arrest and disposition of the charge shall be recorded in the criminal history records maintained by the Tennessee bureau of investigation. A juvenile judge shall have the power of a judge of the court of general sessions to bind the person over to the grand jury as in cases of misdemeanors under the criminal laws of this state. Upon being bound over to the grand jury, the person may be prosecuted on an indictment filed by the district attorney general and a prosecutor need not be named on this indictment. The district attorney general may also file a case of child abuse, neglect or endangerment directly with the grand jury.

(2) On a plea of not guilty to the misdemeanor offense, the juvenile court judge shall have the power to proceed to hear a case on its merits without the intervention of a jury if the person requests a hearing in juvenile court and expressly waives, in writing, indictment, presentment, grand jury investigation and jury trial.

(3) If the person enters a plea of guilty in juvenile court to a misdemeanor offense, the juvenile court judge shall sentence the person under this section.

(f) Except as expressly provided, the provisions of this section shall not be construed as repealing any provision of any other statute, but shall be supplementary thereto and cumulative thereof.

(g) A violation of this section may be a lesser included offense of any kind of homicide, statutory assault or sexual offense if the victim is a child and the evidence supports a charge under this section. In any case in which conduct violating this section also constitutes assault, the conduct may be prosecuted under this section or under § 39-13-101 or § 39-13-102, or both.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.